

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DANIEL PANIAGUA,	)	
	)	
Petitioner,	)	
	)	
v.	)	1:12CV1253
	)	
LARRY DAIL,	)	
	)	
Respondent.	)	

**ORDER**

On September 4, 2013, the United States Magistrate Judge's Recommendation was filed (Doc. 14) and notice was served on the parties pursuant to 28 U.S.C. § 636. Petitioner filed objections within the time period prescribed by section 636. (Docs. 16 and 17.)<sup>1</sup>

The court has reviewed those portions of the Recommendation to which Petitioner objected and has made a *de novo* determination, which is in accord with the Magistrate Judge's Recommendation. The Recommendation is therefore affirmed and adopted.

IT IS THEREFORE ORDERED AND ADJUDGED that Respondent's Motion to Dismiss (Doc. 7) be GRANTED and the Petition (Doc. 1) and this action be DISMISSED. Finding neither a substantial issue for appeal concerning the denial of a constitutional right affecting the

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<sup>1</sup> To the extent Petitioner has filed a purported Notice of Appeal (Doc. 16-1), the court has jurisdiction to enter this final Order and Judgment. See United States v. Brooks, 151 F. App'x 229 (4th Cir. 2005); Davidson v. Edwards, 948 F.2d 1280 (4th Cir. 1991)..

conviction nor a debatable procedural ruling, a certificate of appealability is not issued.

/s/ Thomas D. Schroeder  
United States District Judge

September 30, 2013